



PUBLIC NOTICE

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REMINDER TO VIDEO PROGRAMMING DISTRIBUTORS OF NEED TO MAKE EMERGENCY INFORMATION REGARDING HURRICANE KATRINA EVACUATION AND RELIEF EFFORTS ACCESSIBLE TO PERSONS WITH HEARING OR VISION DISABILITIES

The FCC acknowledges the heroic efforts of all those who have worked to protect life and property from the ravages of Hurricane Katrina, including those to whom this reminder is directed. We recognize the unprecedented challenges that many video programming distributors have experienced resulting from Hurricane Katrina and applaud their efforts to continue operating or to re-establish operations to provide critical service to their communities. At the same time, the Commission has received several complaints that some emergency information being provided over television is not being made accessible to individuals who are deaf or hard of hearing. The Commission has also received complaints that emergency information that was provided visually was blocked by other information on the screen, or that emergency information provided visually blocked closed captioning. We take this opportunity to remind video programming distributors – including broadcasters, cable operators, and satellite television services – of their obligation to make emergency information accessible to persons with hearing and vision disabilities.¹

At the outset, we note the need to comply with Section 79.2 of the Commission's rules is not limited to those areas directly affected by Hurricane Katrina, but also extends to areas throughout the country where Katrina survivors are being temporarily re-located. We also remind video programming distributors that they are not required to close caption this emergency information, and may make the information accessible through the use of "crawls," "scrolls," or other methods of visual presentation, including such simple methods as handwriting on a blackboard. While the Commission is most concerned with the safety of the individuals located in the storm-damaged areas, we stress that the need to make the critical details of emergency information accessible is not limited to the immediate geographic areas affected by Katrina (*e.g.*, Gulf coast towns and cities) because, for example, information such as how citizens may obtain relief assistance falls within the rule's mandate.² There are no exemptions to Section 79.2, and all video programming distributors that air emergency information are required to make it accessible.

¹ See 47 C.F.R. § 79.2 (titled "Accessibility of programming providing emergency information").

² See 47 C.F.R. § 79.2 Note to paragraph (a)(2): "Critical details include, but are not limited to, specific details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter in one's home, instructions on how to secure personal property, road closures, and how to obtain relief assistance."

Section 79.2 requires the following: In the case of persons who are deaf or hard of hearing, emergency information that is provided in the audio portion of the programming must be made accessible using closed captioning *or* other methods of visual presentation, such as open captioning, crawls, or scrolls that appear on the screen.³ Emergency information provided by these means should not block any closed captioning, and, closed captioning should not block any emergency information provided by crawls, scrolls, or other visual means.⁴

This same information must also be provided in a manner that is accessible to persons who are blind or have low vision. First, emergency information that is provided in the video portion of a regularly scheduled newscast or a newscast that interrupts regular programming must be made accessible.⁵ For example, distributors can aurally describe the emergency information in the main audio as part of their ordinary operations.⁶ Second, if the emergency information is being provided in the video portion of programming that is *not* a regularly scheduled newscast or a newscast that interrupts regular programming (e.g., the programmer provides the emergency information through “crawling” or “scrolling” during regular programming), the information must be accompanied by an aural tone.⁷ This tone is intended to alert persons with vision disabilities that the video programming distributor is providing emergency information, and therefore such persons should tune to another source, such as a radio, for more information.

The question of whether a particular incident or event is an “emergency” under this rule is not the same as whether particular information broadcast about the event is “emergency information.” “Emergency information” is information about a current emergency that is intended to further the protection of life, health, safety, or property, *i.e.*, critical details regarding the emergency and how to respond to the emergency.⁸ Announcements regarding evacuation routes and orders, and shelter locations associated with an “emergency” are critical details of emergency information that need to be made accessible.⁹

A local broadcast licensee is responsible for complying with Section 79.2 regardless of the technology used to deliver its signals to consumers (e.g., cable or direct broadcast satellite services).

The Commission also notes that the “pass through” obligation generally imposed on video programming distributors under the closed captioning rules set forth in Section 79.1¹⁰ also applies to emergency information subject to Section 79.2. Therefore, given that broadcasters may sometimes provide emergency information by way of closed captioning (as opposed to scrolls or crawls), the Commission reminds all video programming distributors (e.g., cable and satellite) of their obligation to pass through any captions that they receive from the originating source and their responsibility to maintain their

³ See 47 C.F.R. § 79.2(b)(1)(i).

⁴ See 47 C.F.R. § 79.2(b)(3)(i).

⁵ See 47 C.F.R. § 79.2(b)(1)(ii).

⁶ See *Implementation of Video Description of Video Programming*, Report and Order, MM Docket No. 99-339, FCC 00-258, 15 FCC Rcd. 15230, at 15250, para. 49 (Aug. 7, 2000).

⁷ See 47 C.F.R. § 79.2(b)(1)(iii).

⁸ See 47 C.F.R. § 79.2(a)(2); see also Note to § 79.2(a)(2) discussed in note 2, *infra*.

⁹ *Id.*

¹⁰ See 47 C.F.R. § 79.1(c).

equipment in working order to ensure the accurate transmission of the closed captions.¹¹ In addition, those entities that are permitted to count captions created using the electronic newsroom technique for determining compliance with Section 79.1¹² are reminded that if the electronic newsroom technique does not automatically caption non-scripted news, the provider must make the emergency information accessible via other means (e.g. scrolls or crawls).¹³

Broadcasts of emergency information lacking visual displays and video descriptions deny persons with hearing and vision disabilities access to vital information. To the extent that some video programming distributors may be unaware of the nature of their obligations under the Commission's emergency information rule, the Commission hereby reiterates that all distributors of video programming that provide emergency information about a current emergency must make that information accessible to persons who are deaf or hard of hearing, or blind or have low vision, in accordance with 47 C.F.R. § 79.2.

The Commission recognizes that Hurricane Katrina presented and continues to present extraordinarily difficult challenges to video programming distributors in continuing or re-establishing their operations. To the extent that video programming distributors have questions or concerns regarding compliance with sections 79.1 or 79.2 of our rules during this time period, they should contact the Commission to discuss those concerns. The Consumer & Governmental Affairs Bureau is available to respond to video programming distributors' questions regarding the rule. Please contact Amelia Brown at (202) 418-2799 with your questions, or email at Amelia.Brown@fcc.gov.

Attached is the text of the rule itself, 47 C.F.R. § 79.2. This rule and related Fact sheets summarizing the closed captioning and access to emergency information rules are also available at the FCC Consumer & Governmental Affairs Bureau's website, <http://www.fcc.gov/cgb> and <http://www.fcc.gov/cgb/consumerfacts/emergencyvideo.html>.

The full texts of these documents are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. Copies may be purchased by contacting the FCC's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington D.C. 20554, telephone 1-800-378-3160, facsimile (202) 488-5563, or via e-mail www.bcpweb.com.

To request this *Public Notice* or the rule in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Consumer & Governmental Affairs Bureau Contact: Amelia Brown, (202) 418-2799 (voice); (202) 418-0537 (TTY); e-mail Amelia.Brown@fcc.gov.

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¹¹ See *Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996 – Accessibility of Emergency Programming*, Second Report and Order, MM Docket No. 95-176, FCC 00-136, 15 FCC Rcd 6615, at 6622, n. 48 (Apr. 14, 2000) (“*Closed Captioning Second Report and Order*”); see also *Closed Captioning and Video Description of Video Programming*, Report and Order, MM Docket No. 95-176, FCC 97-279, 13 FCC Rcd. 3272, at 3368-3369, paras. 211-212 (Aug. 22, 1997).

¹² See 47 C.F.R. § 79.1(e)(3).

¹³ See *Closed Captioning Second Report and Order*, 15 FCC Rcd 6615, at 6623-24, para. 16.

ATTACHMENT

47 C.F.R. § 79.2

§ 79.2 Accessibility of programming providing emergency information.

(a) Definitions.

(1) For purposes of this section, the definitions in Sections 79.1 and 79.3 apply.

(2) Emergency information. Information, about a current emergency, that is intended to further the protection of life, health, safety, and property, i.e., critical details regarding the emergency and how to respond to the emergency. Examples of the types of emergencies covered include tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather.

Note to paragraph (a)(2): Critical details include, but are not limited to, specific details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter in one's home, instructions on how to secure personal property, road closures, and how to obtain relief assistance.

(b) Requirements for Accessibility of Programming Providing Emergency Information.

(1) Video programming distributors must make emergency information, as defined in paragraph (a) of this section, accessible as follows:

(i) Emergency information that is provided in the audio portion of the programming must be made accessible to persons with hearing disabilities by using a method of closed captioning or by using a method of visual presentation, as described in Section 79.1 of this part.

(ii) Emergency information that is provided in the video portion of a regularly scheduled newscast, or newscast that interrupts regular programming, must be made accessible to persons with visual disabilities; and

(iii) Emergency Information that is provided in the video portion of programming that is not a regularly scheduled newscast, or a newscast that interrupts regular programming, must be accompanied with an aural tone.

(2) This rule applies to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring.

(3) Video programming distributors must ensure that:

(i) Emergency information should not block any closed captioning and any closed captioning should not block any emergency information provided by means other than closed captioning; and

(ii) Emergency information should not block any video description and any video description provided should not block any emergency information provided by means other than video description.

(c) Complaint Procedures.

A complaint alleging a violation of this section may be transmitted to the Commission by any reasonable means, such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, audio-cassette recording, and Braille, or some other method that would best accommodate the complainant's disability. The complaint should include the name of the video programming distributor against whom the complaint is alleged, the date and time of the omission of emergency information, and the type of emergency. The Commission will notify the video programming distributor of the complaint, and the distributor will reply to the complaint within 30 days.